

**Minutes
Williamson County
Board of Zoning Appeals
May 24, 2007**

Members Present

Dave Ausbrooks, Chairman
Steve Wherley, Secretary
Don Crohan
Sue Workman

Staff Present

Lee Sanders
Linda Hodges
Brenda Midgett
Jeff Moseley, County Attorney

The Williamson County Board of Zoning Appeals met in regular session on May 24, 2007, in the Auditorium of the Williamson County Administrative Complex. Chairman Dave Ausbrooks opened the meeting with a public statement that he read stating that the Board of Zoning Appeals is made up of five citizens nominated as Board members by the County Mayor. One member is a Planning Commissioner, one member may be a County Commissioner and the remaining members are not otherwise connected with County Government. He went on to say the Board will hear from anyone who has anything to say to the Board relevant to the request at hand. However, the Board will not view or hear anything that does not have direct bearing on the item being heard. He requested that all comments be addressed to the Board.

Chairman Ausbrooks announced that Item 1 was withdrawn from public hearing and then he asked the members to consider the minutes. Steve Wherley made the motion to approve the minutes of the April 26, 2007, meeting as printed, and Chairman Ausbrooks seconded the motion. The motion was unanimously approved.

ITEM 1

A request by Jock Wiesner for an appeal/variance to allow an accessory structure at 6810 Arno-Allisona Road. The property is zoned Rural and is located in the 3rd district.

WITHDRAWN

ITEM 2

A request by Rodes Hart for a Special Use to allow a farm employee residence at 2933 Hillsboro Road. The property is zoned Suburban Estate and is located in the 8th district.

Linda Hodges read the staff report, and reviewed the background (see agenda report). The overhead projector was utilized for the aerial view of the property and site plan. Lee Sanders indicated to the Board the proposed site for the farm employee residence. He stated the site is located on Harpeth Valley Farm located off Hillsboro Road. Mr. Sanders stated that Mr. Hart wants to expand his cattle farm operation and build a farm employee residence for his farm manager.

The applicant, Rodes Hart, and surveyor Steve Watkins represented the item. Mr. Hart stated he agrees with staff's report and he feels that the request meets all requirements of the zoning ordinance.

Chairman Ausbrooks opened the meeting to the public.

Being no one to speak, Chairman Ausbrooks closed the public hearing.

Sue Workman stated according to the information submitted, she feels the request meets the requirements of Sections 9410 and 4400 Q of the zoning ordinance.

Don Crohan asked Mr. Hart if a full time employee would live at the residence.

Mr. Hart stated yes.

Don Crohan made a motion to approve the request for a farm employee residence since the request meets the requirements of Sections 9410 and 4400 Q of the zoning ordinance. Sue Workman seconded the motion. Motion was approved by unanimous voice vote.

ITEM 3

A request by George Dean for Fox Hardwood, (Tommy and Wanda Fox, property owner) for an appeal of staff's decision regarding property located at 5973 Pinewood Road. The property is zoned Rural and is located in the 2nd district.

Linda Hodges read the staff report, and reviewed the background (see agenda report **and attachments**). The overhead projector was utilized for the aerial view of the property and site plan. Lee Sanders indicated to the Board the site of the sawmill and other parcels involved within the site. He stated the sawmill is located on the south side of Pinewood Road. Mr. Sanders stated that in 1995 a plan on an adjoining property was approved by the Planning Commission for a lumber drying building as an accessory use that was tied to the long term lease of the sawmill. He stated in 1988 the parcel was split by Pinewood Road and the property was originally a total of 107 acres. Mr. Sanders stated the 107 acres was split up in 2001 when Mr. Fox purchased approximately 26 acres that included the sawmill buildings. He reminded the Board they were to decide whether the sawmill on this property is considered a conforming use or not. Mr. Sanders stated the property is zoned Rural and sawmills are allowed as a "conditional" use in the Rural zone.

Don Crohan stated that he wanted to disclose to the Board that he was on the Planning Commission Board in 1995 when the hearing was held for the lumber drying building and is still on the Planning Commission Board.

Chairman Ausbrooks noted Mr. Crohan's disclosure.

Attorney George Dean, Attorney Carol Naslund with Hale and Hale, along with Mr. Tommy Fox, property owner, represented the item. George Dean presented to the Board a DVD in which he interviewed Mrs. Grace Sullivan, and her daughter, Ms. Sharon Sullivan, the former property owner.

Mrs. Sullivan stated the sawmill was verbally leased to Mr. Fox and the leased area never exceeded the area of actual use. She stated Mr. Fox purchased the property in 2001 and they drew a property line that matched the area being used by the mill operation. She stated the sawmill was built in 1938 and she purchased the property in 1953.

Mr. Dean stated the request meets the State Statute Law #13-7-208 as a non-conforming use because the mill was in operation when the County changed the regulations in 1988 to allow sawmills as a conditional use. **At this point Mr. Dean passed out copies titled Tenn. Code Ann. § 13-7-208 (b) (1) to the Board.**

Chairman Ausbrooks asked Mr. Dean if there was a contract which would identify how much acreage was used for the sawmill.

Mr. Dean stated there was no contract written. He stated Mrs. Sullivan informed him the amount of acreage verbally leased for the sawmill was what was sold to Mr. Fox. Mr. Dean then gave to Chairman Ausbrooks a copy of Tennessee Non-Conforming Property Act, Section B. He informed Chairman Ausbrooks the use of the sawmill is still the same and he feels it meets all requirements of the statute. Mr. Dean stated the statute only considers change of use.

Chairman Ausbrooks opened the meeting to the public.

Being no one to speak, Chairman Ausbrooks closed the public hearing.

Chairman Ausbrooks asked Mr. Dean why he wanted the site to be determined to be a non-conforming use.

Mr. Dean stated there are some advantages to being considered non-conforming such as, being exempt from the County's zoning limitations regarding the amount of lot coverage and building square footage.

Don Crohan asked Mr. Dean if the 26 acres was surveyed and identifiable in 1988.

Mr. Dean stated no. The applicant was not supposed to go beyond the creek for the sawmill location.

Don Crohan asked staff about the change of current use and if this could be grandfathered in.

Mr. Sanders stated the property has changed in size and sawmills are allowed in the district. He stated in order to expand, they must meet zoning requirements and obtain permits. Mr. Sanders stated this site cannot be grandfathered in because it is a conforming use, one that is allowed in the zoning district.

Sue Workman asked staff how much more acreage would the applicant need in order to comply.

Mr. Sanders stated he didn't know. He stated the lot would have to be large enough to meet floor area ratio and landscape ratio as well as bufferyard and parking requirements.

Don Crohan asked the applicant if he had tried to purchase more property.

Mr. Fox stated that if he did try to purchase back the former acreage, he would still be in violation. He stated he has been out of compliance all along due to the small amount of useable acreage the zoning ordinance allows.

Chairman Ausbrooks read the definition of non-conforming use as contained in Williamson County Zoning Ordinance Division 2300. He pointed out this use is one that may be permitted in the Rural zone. He then asked staff about the non-complying ratio.

Mr. Sanders confirmed that the sawmill is a conforming use in the district, but non-complying with current regulations due to unpermitted expansion caused by downsizing the lot and further development of the mill operation.

Chairman Ausbrooks asked George Dean when the 26-acre parcel was created, and Mr. Dean stated the 26-acre parcel was created in 2001.

Steve Wherley indicated he had seen nothing presented leading him to believe that after the 1988 zoning ordinance came into effect this was a non-conforming use. He stated it appears the sawmill on 107 acres was a conforming use in that at this time a sawmill could be a legal use within the Rural area.

George Dean stated that if the Board did not find the sawmill to be a non-conforming use, they need not decide any other issues.

Chairman Ausbrooks noted the Board has looked at this matter diligently.

Steve Wherley moved to deny the request for appeal of the administrative decision based on information at the point of adoption of the 1988 zoning ordinance the parcel in question and the use was a legal conforming use in this district. Don Crohan seconded the motion. Motion was approved by unanimous voice vote.

There being no further business to come before the Board, meeting was adjourned.

Secretary's Signature

Date